

REMARKS/ARGUMENTS

The Amendment filed on 09/27/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. In response, the applicants have deleted the paragraph [0096] which was added by the last amendment and have replaced it with the paragraph [0096] as originally filed. Accordingly, this objection has been overcome.

Claims 115, 126, 137 and 148 are rejected under 35 U.S.C. 112, second paragraph as being indefinite in that they use the term "aspect ratio". In response, the applicants have cancelled claims 115, 126, 137 and 148. This rejection is therefore considered to have been overcome.

Claims 129 and 140 are finally rejected under 35 U.S.C. 102(b) as being anticipated by the newly cited reference DE 33 10 892. Claims 151-155 are finally rejected under 35 U.S.C. 102(b) as being anticipated by newly cited references DE 33 10 892. However, in the discussion following that rejection, the Examiner refers to only the newly cited reference FR 2 446 097. Accordingly, the applicants believe that the Examiner meant to reject those claims on the basis of the newly cited French reference, and will therefore address the rejection as such.

Claims 106-150 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of LaForge, newly cited reference JP 08-49856, newly cited reference DE 33 10 892 and Benesh. Claims 156-160 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over newly cited reference FR 2 446 097.

In response, the applicants have reviewed those references in detail and believe that the remaining claims are patentable distinctive thereover for the reasons to be discussed hereinbelow.

Before discussing the issues, the newly cited references will be briefly described for the benefit of the Examiner.

The German reference 33 10 892 shows an inner cooking vessel 1 which is disposed within an outer vessel 2 having an opening 6 in its bottom to receive a burner. The combustion gases pass up through the space between the inner vessel 1

and the outer vessel 2. The cooking vessel has on its outer side a plurality of heat exchanging ribs that are apparently numbered 3 in Fig. 3 and 15 in Fig. 4. Each of the ribs is discrete from the others and extends radially outwardly from a point in the bottom and then helically up the side of the cooking vessel as shown in Fig. 4.

The reference FR 2446097 shows a portable cooker having an inner 11 and outer walls, with the inner wall 11 being a cooking vessel and the outer wall 12 having an opening in its bottom to accommodate the burner 7a. A plurality of support arms 10 have a portion 10c which supports the bottom 12a of the outer wall 12, an upstanding portion 10b that supports the burner 7a and a depending section 10a that is held in place by way of a collar 9.

The reference JP 08-49856 shows hood equipment for a gas range burner having an inner member 3 surrounding the burner 7 and an outer covering 2 surrounding the inner member 3 and having a plurality of air holes 4 therein. The flame from the burner 7 can heat up the inner member 3 and the hot gases can pass out the air holes 4. This combination apparently provides for protection against the wind blowing out the flame. In Fig. 7 a plurality of support members 15 extend radially inwardly from the upper edge of the outer covering 2 so as to provide support for the cooking pot that rests on those members.

Addressing first the rejection of claims 129 and 140 as being anticipated by DE 33 10892, the Examiner has said that "that reference shows and discloses a series of integrally connected, thermally conductive protrusions fixedly secured to and positioned adjacent to and along the entire extent of a peripheral edge of the external bottom side...". With this, the applicants respectfully, but strongly, disagree. First of all, they are not integrally connected as in the present invention wherein a continuous piece of material is used rather than discrete fins as shown in the cited reference. The present invention therefore provides great advantages in the ease and economical manufacture of the unit, as well as superior performance.

Secondly, the German reference does not have its protrusions 15 "positioned adjacent to and along the entire extent of a peripheral edge of the external bottom side". Rather, there are a plurality of radially extending ribs that extend along a very

small part of the peripheral edge, with the remaining edge being open (i.e. between the fins). Thus, not only does the German reference not show the invention, it would not suggest and would rather teach away from the present invention since it is substantially different both in structure and in performance.

Considering now the rejection of claims 151-155 as being anticipated by the reference FR 2 446 097, the Examiner has said that “the reference shows a vessel 11; the top housing 12 having a top rim (above 12b) coupled circumferentially to the external bottom side of the vessel (see annular bottom wall step adjacent 12b)”. However, the Examiner has failed to recognize that in the Applicant’s claims, the “external bottom side of the vessel” was qualified in the recitation of the vessel and therefore cannot be reasonable construed in the manner applied by the Examiner. That is, the applicants recite “a vessel defining a cavity having enclosed sides, a thermally conductive bottom end and a top end forming an opening for the introduction to and extraction from said cavity of contents to be heated, the bottom end having an external bottom side for receiving heat”. Clearly the outwardly extending portion at the top of the vessel 11 cannot be considered to be a part of a thermally conductive bottom end of the vessel and adapted for receiving heat. Thus, not only is the cited reference substantially different in structure from the present invention, it is not technically consistent with the recited features of claim 151.

Considering now the rejection under 35 U.S.C. 103(a) of claim 106-150 in view of the combination of the three previously cited references and the two newly cited references JP 08-49856 and DE 33 10 892, the previously cited three references were earlier discussed by the applicant and the applicant’s earlier remarks are still considered to be applicable to these dependent claims.

In the Examiners discussion of Barnes, he indicates that Barnes discloses “a vessel (not shown) with an external bottom surface having attached to a ring shaped single thermally conductive member h formed with a plurality of interconnected undulating protrusions (see Figure 2)”. As discussed in applicant’s last communication, there is clearly no showing or suggestion that the conductive

member h is attached to the vessel. This is particularly clear since the vessel is not even shown in the patent.

In respect to the LaForge patent, the Examiner has persisted with his statement that “the skirt is separable from the base and the base is storable within the vessel”. As stated in the earlier communication, the applicants strongly disagree with this conclusion since there is no showing or suggestion in the drawings or in the specification that this is true. Further, the fact that the primary support 12 appears to be a substantially the same diameter as the cooking pot 16 would appear to teach away from this concept.

The reference DE 33 10 892 is again described by the Examiner as disclosing “a series of integrally connected, thermally conductive protrusion (15) fixedly secured to and positioned adjacent to and along the entire extent of a peripheral edge of the external bottom side...”. As discussed hereinabove, the protrusions 15 are neither integrally connected nor are they positioned along the entire extent of a peripheral edge of the external bottom side.

In respect to the Benesh reference, the Examiner also persists in his position that that reference teaches “fixedly attaching a single (i.e. the thermally conductive elements are formed as a single unit) top housing side structure (8) and thermally conductive member (4, 10, 19, etc.) to a vessel bottom wall (2)”. Again, as discussed in the applicants last communication, the applicants believe that it is unreasonable to consider this as the equivalent to a single member which is formed from a single strip of aluminum as is in the present invention. Further, the structure of Benesh clearly does not show a single member that is positioned adjacent to and along the entire extent of a peripheral edge of the external bottom side of the vessel as the applicant’s invention.

As discussed hereinabove, the applicants believe that there are certain recited features which are not shown by any of the cited references taken individually or in combination. While the applicants agree that each of the five cited references show some of the recited features, the applicants do not believe that these features would be obviously combined by one skilled in the art as suggested by the Examiner. That

Serial No.: 10/603,947
Amendment Dated: February 27, 2006
Reply to Office Action of January 6, 2006

is, even though they all relate to portable heaters, the substantial differences in their structures and the different ways in which they function would not, as a practical matter, permit the interchanging of features as suggested by the Examiner.

In respect to the rejection of claims 156-160 in view of the newly cited reference FR 2 446 097, the comments made by the applicants with respect to claims 151-155 above are applicable. Further, the additional features recited in the dependent claims 156-160 are considered to further distinguish over the prior art. For example, the slot end dimple attachment is clearly not shown or suggested by this reference. In respect to claims 159 and 160, the Examiner has stated that "Official Notice is taken that burner components are known to be secured by slot and dimple attachment means for (see for example US 004374489)". The applicants have referred to that patent and have found no slot and dimple attachment. Rather, there is a simple set lock screw 9 which slides downwardly and then obliquely to the left into the locking slot 10. This is clearly not a slot and dimple attachment arrangement as described and claimed by the applicants.

For the reasons discussed hereinabove, the applicants believe that the remaining claims are patentably distinctive over the cited art. A reconsideration of the Examiner's rejections and a passing of the case to issue is therefore respectfully requested.

The present amendment has been made for the purpose of canceling claims and canceling portions of the specification that were considered to be new matter. Accordingly it is requested that the present amendment be admitted for purposes of presenting the claims in better form for consideration on appeal.

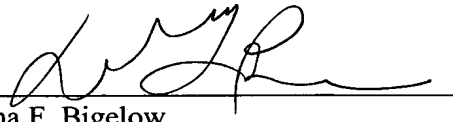
If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicant's representative at the telephone number below.

Serial No.: 10/603,947
Amendment Dated: February 27, 2006
Reply to Office Action of January 6, 2006

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

By: 
Dana F. Bigelow
Reg. No. 26,441

DFB/cmh
Telephone: (315) 425-9000

Customer No.: 20874